

DRAFT AMENDMENTS TO CIVIL SERVICE COMMISSION RULES

REV A
August 24, 2000

Added text is underlined. Deleted text is ~~struck through~~.

A. The following amendments are proposed to become effective on November 12, 2000:

1-1 RULES AND AMENDMENTS

1-1.1 Circulation of Proposed Amendments for Comment

The state personnel director shall give written notice to all appointing authorities and recognized employee organizations of any proposed amendments to these rules at least 28 calendar days before final action by the civil service commission. If the written notice has been given at least 14 calendar days at the time action is to be taken, the commission may waive the 28-day notice requirement by the affirmative vote of a majority of a quorum ~~if, provided that, in all cases,~~ the notice of the proposed amendment ~~provided~~ds an opportunity for comment and notification of the date and place of the meeting at which the proposed revision ~~is will~~ first ~~be~~ considered. The commission may further modify a proposed amendment or defer final action to a subsequent meeting without further written notice.

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1-3 REGULATIONS

The state personnel director is authorized to issue regulations that the director deems to be necessary or useful. A regulation issued by the state personnel director ~~is shall be~~ binding on the department of civil service, unless the commission finds that the regulation violates a rule. The state personnel director shall make all regulations available to employees through their personnel offices and the internet.

1-9 EXCEPTED AND EXEMPT POSITIONS

1-9.1 Excepted Positions

Positions excepted from the state classified service are those specified in article 11, section 5, of the constitution.

1-9.2 Exempt Positions

(a) **Limitations.** The head of each principal department may request that ~~the state personnel director civil service~~ exempt up to five positions from the classified service, as provided in article 11, section 5, of the constitution. Four of the five positions must be policy-making positions.

(b) **Method of establishing.** The state personnel director ~~may is authorized to~~ exempt up to five positions within each principal department upon request. The director shall report to the civil service commission each exemption granted and shall maintain a record of all exempt positions.

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1-12 POLITICAL ACTIVITIES

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1-12.3 Leave of Absence for General or Special Election

(a) **Employee not elected.** An employee on required leave of absence for a general or special election ~~who is but~~ not elected in that election shall return from leave of absence immediately after the official canvass of votes.

(b) **Employee elected.** An employee on required leave ~~who is~~ elected in a general or special election shall leave state classified employment by resignation, retirement, or appropriate separation immediately upon assumption of the office.

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2-1 TERMS OF EMPLOYMENT

2-1.1 Career Appointment

An indefinite appointment expected to last the equivalent of 90 full-time workdays or more in a calendar year is career employment. A limited-term appointment expected to last the equivalent of 90 full-time workdays or more in a calendar year is considered as career employment for all benefit purposes except as otherwise provided in the rules or regulations.

2-1.2 Noncareer Appointment

(a) **Defined.** An appointment expected to last less than the equivalent of 90 full-time workdays in a calendar year is a noncareer appointment.

~~2-1.3 Student and Special Classifications~~

(b) **Student and special noncareer classifications authorized.** The state personnel director may issue regulations to permit noncareer employment exceeding the equivalent of 89 full-time

workdays in a calendar year, without fringe benefits, for designated student and special classifications.

(c) **Limitations on noncareer appointments.** An employee in a noncareer appointment is not entitled to any of the following:

(1) Sick or annual leave accruals.

(2) Holiday pay.

(3) Enrollment in state-sponsored group insurance plans.

(4) Service credit for any purpose, such as longevity compensation, salary step increase, employment preference, or status.

(5) Employment exceeding the equivalent of 89 full-time workdays in any calendar year.

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2-4 EMPLOYMENT PREFERENCE

2-4.1 Application and Protection

(a) **Application.** . . . [No change]

(b) **Limited-term appointments.** An employee is not eligible to exercise employment preference or to be placed on a recall list at the end of a limited-term appointment, unless the employee meets one of the following criteria:

(1) An employee with status gained from an indefinite appointment ~~to a permanent position~~ who ~~transfers or~~ accepts or receives a lateral-job change to a limited-term appointment may exercise employment preference at the end of the limited-term appointment. Employment preference begins at the last classification level at which the employee achieved status in an indefinite appointment before accepting the limited-term appointment. Employment preference may be exercised only within the principal department or autonomous agency that appointed the employee to the limited-term appointment.

(2) A person who is recalled on a limited-term basis is not eligible to exercise employment preference at the end of the limited-term appointment but shall be returned to all recall lists for which the employee is eligible.

(c) **Protected positions.** . . . [No change]

(d) **Departmental layoff plans.** The department of civil service may approve a departmental layoff plan that varies the application of employment preference within a department or autonomous agency. An approved departmental layoff plan may vary the application of employment preference in the following areas only:

(1) The application of county preference based on organizational or geographic limits.

(2) The application of employment preference between recognized autonomous entities of a principal department.

(3) The application of employment preference into additional positions in class clusters approved by the appointing authority and the department of civil service.

(4) The application of employment preference between eligible employee status codes.

2-11 LEAVE OF ABSENCE WITHOUT PAY

2-11.1 Authorization

An appointing authority may grant an employee a leave of absence without pay and without loss of employment status. Additionally, the appointing authority must grant a leave of absence without pay when specifically required ~~prescribed~~ by the commission.

3-2 APPLICANT POOLS AND RECALL LISTS

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3-2.3 Recall Lists

An employee is eligible to be placed on a recall list only if the employee (1) gained status from an indefinite appointment ~~to a permanent classified position,~~ and (2) is laid off, demoted, or otherwise displaced for reasons of administrative efficiency. Recall lists are not created or maintained for classifications that are protected from the application of employment preference in rule 2-4 or applicable regulations.

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3-1 EXAMINATIONS

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3-1.5 Integrity of Process

To be considered for appraisal or appointment, an applicant shall comply with the established procedures and processes.

(a) Prohibited practices. During the application, appraisal, or appointment process, a person shall not do any of the following:

- (1) Make any false statements or omissions of a material fact.
- (2) Misrepresent education or experience.
- (3) Engage in deception or fraud.
- (4) Cheat.
- (5) Compromise the integrity of the appraisal process.
- (6) Violate rule 2-6, Drug and Alcohol Testing.

3-3 APPOINTMENTS AND JOB CHANGES

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3-3.3 Emergency Appointment

When emergency conditions require immediate action, an appointing authority is authorized to make an emergency appointment for up to 28 calendar days. The state personnel director may approve an extension of an emergency appointment up to an additional 28 calendar days. An appointing authority cannot reappoint a person to a second consecutive emergency appointment within the same principal department, autonomous entity, or agency of convenience. An emergency appointment is authorized only when made in conformity with the civil service regulations governing emergency appointments.

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4-4 POSITION ABOLISHMENT

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4-4.2 Rescinding of Classification

The department of civil service may rescind the classification of Aa position that remains vacant for 6 months. ~~may have its approved classification rescinded.~~

5-6 ADDITIONAL COMPENSATION: MISCELLANEOUS

5-6.7 Conservation Officer 13 Premium

~~(a) An employee classified as a Conservation Officer 13 is credited with an additional 1.2 hours of straight time compensation for each biweekly pay period.~~

~~(b)~~ An employee classified as a Conservation Officer–Law Supervisor 13 who is identified by the department of natural resources and approved as eligible by the department of civil service may be credited with an additional 1.2 hours of straight time compensation for each biweekly pay period.

8-1.41 Employer

Employer means each of the following:

(a) The appointing authority responsible ~~(1)~~ for (1) exercising the constitutional and statutory administrative and executive authority of a principal department or autonomous entity and (2) ~~for~~ implementing the employment relations policy of the governor.

(b) In the context of primary collective bargaining negotiations and the administration of employee fringe benefit programs, ~~the employer is~~ means the state employer, acting in consultation with elected department directors.

8-1.52 Human Resources Management Network (HRMN)

Human Resources Management Network (HRMN) means the integrated network delivering payroll, personnel, and employee benefits functionality and data exchange among agencies and third parties.

8-1.60 Lateral Job Change

Lateral job change means the authorized movement of an employee to ~~(1)~~ a different position (1) in the same classification or (2) ~~a different position~~ in a different classification at the same classification level.

B. The following amendments to Rule 4-6 are proposed to become effective immediately:

4-6 [Chapter 7] DISBURSEMENTS FOR PERSONAL SERVICES

4-6.1 [8-1] Definitions.

As used in these rules:

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(g) [8-1.100] *Request* means a request submitted by an appointing authority to the department of civil service under rule 4-6.6 [7-5] for approval to make disbursements for ~~acquire~~ personal services ~~from to~~ a person who is not a classified employee, or under rule 4-6.8 [7-7], to add personal services to the preauthorized list.

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4-6.3 [7-2] STANDARDS FOR ~~CONTRACTING~~ DISBURSEMENTS FOR PERSONAL SERVICES

[7-2.1 Requirements]

An appointing authority may make or authorize disbursements for personal services under a contract for personal services only if the personal services meet one or more of the following standards:

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- (d) **Standard D.** The personal services would be obtained at substantial savings over the proposed period of disbursements ~~life of the contract~~ when compared with having the same personal services performed by the classified work force. The personal services do not meet this standard if, despite the savings over the proposed period of disbursements ~~life of the contract~~, substantial savings would not likely be realized over the long term. Savings are “substantial” if the ~~contract for personal services results in~~ average annual savings over the proposed period of disbursements are equal to or greater than the minimum required savings computed using the table below:

<u>Col. 1</u>		<u>Col. 2</u>
Average Annual Contract Cost of <u>Contracting:</u>		Minimum Required Average Annual Savings
<i>From:</i>	<i>To:</i>	Must Equal:
\$ 1	\$ 25,000	25 % of avg. annual cost
25,001	50,000	20 % (minimum \$6,250)
50,001	100,000	15 % (minimum \$10,000)
100,001	200,000	12.5 % (minimum \$15,000)
200,001	500,000	10 % (minimum \$25,000)
500,001	1,000,000	Minimum \$50,000
1,000,001	and above	5 % of avg. annual cost

(e) **Standard E.** The personal services in the request will be ~~are~~ included in a mixed contract that meets each of the following ~~tests~~:

(1) The mixed contract ~~is~~ will be predominantly for things other than the performance of personal services.

(2) The personal services to be included are logically or practically related to the predominant nature of the contract ~~request~~.

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4-6.13 [7-13] LIMITATIONS

(a) **Civil service does not approve contracts.** Nothing in these rules shall relieve [*relieves*] an appointing authority of obligations under any other law, rule, or regulation that may apply to a contract for personal services. Approval of a request by the department of civil service under this rule does not, itself, constitute approval of any contract or any agreement by the state of Michigan to be bound by the terms of any contract.

(b) **Limitation on aggregate disbursements.** Approval of a request by the department of civil service required by these rules only authorizes the appointing authority to make disbursements for personal services to persons outside the classified service for the proposed period of disbursements. The appointing authority shall not make aggregate total disbursement for personal services over the proposed period of disbursements that exceed the total amount approved by the department of civil service without the further approval of the department.

STAFF COMMENTS TO PROPOSED AMENDMENTS TO RULE 4-6:

A recent circuit court decision interpreting Standard D has confused the total period of disbursements approved by civil service with the length of the subsequent individual contracts entered into by the appointing authority. Staff recommends that the text of rules 4-6.1, 4-6.3, and 4-6.13 [*rules 8-1.100, 7-2.1, and 7-13*] be amended to clarify the matter immediately.

STAFF COMMENTS (continued)

The amended text reinforces the commission's existing interpretation of its rules that civil service only approves the maximum aggregate disbursements for all personal services over the entire period requested by the appointing authority; civil service does not review or approve the resulting actual contracts for personal services executed by the appointing authority. Thus, if civil service approves a request covering a five-year period, the appointing authority is free to enter into *one* five-year contract, *five* one-year contracts, or any other combination that is appropriate. The only limitation on the appointing authority is that its aggregate total expenditures over the entire five-year period cannot exceed the total amount approved by civil service for the five-year period.

NOTE: The proposed amendments to rule 4-6 reflect both the numbering of the current rulebook and the numbering in the revised rulebook to become effective in November 2000. The November 2000 numbering is reflected above in *[italics in brackets]*.